



## **PROVO MUNICIPAL COUNCIL**

### **Redevelopment Agency of Provo**

#### **Regular Meeting Minutes**

5:30 PM, Tuesday, October 06, 2015

Room 200, Municipal Council Chambers

351 West Center, Provo, Utah

## **Opening Ceremony**

### **Roll Call**

THE FOLLOWING MEMBERS OF THE COUNCIL AND ADMINISTRATION WERE PRESENT:

Council Member Gary Garrett Council  
Council Member David Sewell Council  
Council Member Gary Winterton Council  
Council Member Vernon K. Van Buren  
Deputy City Attorney Brian Jones

Member Kim Santiago  
Member Harold L. Miller, Jr.  
Member Calli Hales  
CAO Wayne Parker  
Council Executive Director Matthew Taylor

Conducting: Council Chair Gary Garrett

### **Invocation and Pledge given by David Walter, Provo City RDA Director**

### **Approval of Minutes – September 15, 2015**

**Motion:** Council Member Gary Winterton moved to approve the minutes of September 15, 2015. The motion was seconded by Council Member Vernon K. Van Buren.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

## **Presentations, Proclamations and Awards**

### **1. A proclamation to Provo City's sister City, Meissen, Germany. The Teachers & Students delegation is visiting Provo City this week (15-127)**

David Walter, Provo City RDA Director, read a proclamation welcoming students and teachers from Meissen, Germany to Provo for the eighth bi-annual exchange between the Franziskaneum Gymnasium and Timpview High School German classes. The visitors would be in Provo for two weeks and then spend a week in San Francisco before returning to Germany.

The proclamation was presented to Ms. Susanne Rosch who thanked the City for providing a very warm welcome. She stated that the program gave students a mutual understanding of things they shared with each other including cultural, economic, and educational experiences. This was a small world and they all could be a part of it.

Mr. Sewell noted that his son was one of the first to go on the exchange program and had a wonderful experience. His daughter Melanie was able to go to Germany recently and was hosted by the Johanna Ruprecht family and they were, in turn, being hosted in Provo by the Sewell family.

Stephen Van Orden, Timpview High School, reported the group hiked to Timpanogos Cave and saw the heart of the cave. He said the true heart of this exchange program was the families on both sides that reached out, supported, and helped this experience to grow.

## **2. Fire Prevention Week October 4-10**

Lynn Schofield, Provo City Fire Marshall, read a proclamation declaring October 4 – 10, 2015 as National Fire Prevention Week. The 2015 Fire Prevention Week theme, “Hear the Beep Where You Sleep - Every Bedroom Needs a Working Smoke Alarm!” served to remind citizens that they needed working smoke alarms in every bedroom, outside each sleeping area, and on every level of the home, including the basement. It was also important to practice a home fire escape plan on a regular basis.

Mr. Schofield announced the Fire Department would be holding open house activities at the recreation center on Friday, Oct 9, from 4 to 6 p.m. and on Saturday, October 10, from 2 to 5 p.m.

## **Public Comment**

There were no public comments.

## **Mayor's Items and Reports**

### **3. Resolution 2015-52 approving the interlocal cooperation agreement between Utah County and Provo City regarding the use of the JustWare Attorney Case and Document Management System (15-131)**

Cecelia Zarbock, Legal Department Executive Office Assistant, presented. Ms. Zarbock reported that the City Attorney’s office had been using the case management software called Prosecution Information Management System. The software, created and maintained by the Utah Prosecution Council, would no longer be supported so cities were required to look at other software options.

Provo City looked at several options and found the JustWare Attorney Case and Document Management System (JustWare) would be the best solution. Utah County reached out to the cities in the county and offered to host the JustWare software on their servers and provide access at a reasonable rate for all cities. This would make the software affordable for Provo City.

JustWare had the capability of e-filing court documents, a mandate recently made by the Administrative Office of the Courts. The interlocal agreement with Utah County, if approved, would be effective at the end of the year and renewed on an annual basis.

Josh Ihrig, Division Director – Information Systems, stated there was a fixed cost that would be reviewed each year to account for any licensing and maintenance increases with an option to opt out and move to different software. The city would also pay shared costs to the county for the physical hardware, database software, operating software and their IT staff support for the system. If other cities dropped out our shared costs could go higher. The funding for this was in the current budget.

**Motion:** Council Member Kim Santiago moved to approve **Resolution 2015-52** as written. The motion was seconded by Council Member Calli Hales.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

**4. Ordinance 2015-38 amending Provo City Code Chapter 9.32.200 (Unlawful Transfer on a Roadway). (15-128)**

Brian Jones, Deputy City Attorney, presented. Mr. Jones noted that when this ordinance was passed it was clear the intent was to prohibit transfers between vehicles and pedestrians regardless of the direction of the transfer. However, the ordinance was not clear that it applied to transfers from the pedestrian to the occupant of a vehicle. The proposed amendment would clean up the language to make sure the intent was stated in the ordinance.

In response to a question from Chair Garrett, Wayne Parker, CAO, was not sure the exact number of unlawful transfer cases that had been prosecuted but would get that information for him. He said the push to enforce tended to occur in the spring when the weather warmed up. Also, they would be watching for it during the open house next winter when several hundred visitors would be downtown.

**Motion:** Council Member David Sewell moved to approve **Ordinance 2015-38** as written. The motion was seconded by Council Member Calli Hales.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

**5. Resolution 2015-53 requesting the recertification of the Provo City Justice Court by the Utah Judicial Council. (15-129)**

John Borget, Administrative Services Director, presented. State statute required all municipal Justice Courts to be certified by the Utah Judicial Council every four years. The Provo City Justice Court certification expires in February 2016. In order to recertify the municipality must submit a resolution approved by the legislative body requesting recertification and stating Provo City met all Justice Court standards and requirements. Documents must be submitted to the Justice Court Standards Committee by October 30, 2015.

**Motion:** Council Member Gary Winterton moved to approve **Resolution 2015-53**. The motion was seconded by Council Member Harold L. Miller, Jr.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

**6. Resolution 2015-54 authorizing the Mayor to sign the "Commitment Letter - Culinary, Landscape and Irrigation Water" on behalf of the City warranting that Provo City will provide adequate water service connections to the two lots located in the Special Section 38 Subdivision, Plat "A". (15-130)**

Bart Simons, Public Works Division Director – Water, presented. Provo City recently surplus and sold properties in Southfork (Provo Canyon near Vivian Park) that needed water service. The proposed agreement would provide a service line to the two lots from our main line up Southfork. Mr. Simon reported that the amount of water they would use would be very minimal. The agreement was to provide adequate water connections; there were no water rights involved.

**Motion:** Council Member Vernon K. Van Buren moved to approve **Resolution 2015-54**. The motion was seconded by Council Member Kim Santiago.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

Recess Municipal Council Meeting

**Motion:** Council Member Kim Santiago moved to recess the Municipal Council Meeting and convene as the Redevelopment Agency at 6:04 p.m. The motion was seconded by Council Member Calli Hales.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

**Redevelopment Agency of Provo**

**7. Resolution 2015-RDA-10-06-1 authorizing the Chief Executive Officer to enter into a lease agreement with Forge Development to allow them to utilize parking spaces for a pending housing project at 80 East 100 North. (15-125)**

David Walter, Redevelopment Director, presented. The proposed lease agreement between Provo City and Forge Development would allow them to lease an additional 55 parking spaces in the Wells Fargo parking tower. The parking spaces would be used for a pending housing project at 80 East 100 North. Forge Development was currently leasing 80 parking spaces for the 63 East Development. Those parking spaces, combined with the requested 55, would leave 33 parking spaces allotted to the RDA in the parking structure. Mr. Walter stated the remaining 33 stalls could be used for short-term agreements with people to use for fill-in purposes or lease to

other businesses. Mr. Taylor stated they could be used for public parking in general for the adjacent retail developments. Also, there were two vacant parcels on that block where future projects might be built and need parking stalls.

The price would be \$30 per stall per month for a term of 99 years beginning within 30 days of the developer receiving a certificate of occupancy from Provo City. The RDA could take some of the parking stalls back if they were not needed. If approved, this agreement would allow Forge Development to move forward with their financing arrangements for the 80 East project.

Mr. Walter stated that the developer was using some of the parking allocated to the 63 East project to meet the parking requirements for the 80 East project. He indicated that some of the tenants in the 63 East development did not require the space so they were willing to share.

Ryan Freeman, CEO of Forge Companies, stated that if they took some of the parking spaces allocated to 63 East and used them for the 80 East project they would have parking for all the residential tenants but none for commercial users. He explained that they were banking on having commercial customers use the residential parking during the day when the residential stalls should be vacant.

Mr. Taylor noted that the zoning ordinance required each project to have the required amount of parking whether it was being used or not. There were some provisions in the code for shared parking but he was not sure if they could lower the required parking for a project because there was available parking at another development. The developer would have to make it clear the daytime use and nighttime use were compatible and parking could be shared.

Mr. Freeman stated that the 80 East project was 100% residential so, hopefully, enough people would leave during the day to allow commercial parking in the area. He reported that all the floors were occupied at the 63 East development except the second floor and that should be fully occupied by the end of October.

Mr. Walter replied that there were a number of spaces, especially in the upper levels, that were not being used at all. There would be more parking spaces used toward the evening when residents were at home. He felt there would be adequate parking to meet both projects.

The new project at 80 East would have 85 units and require 128 parking spaces with 55 coming from the Wells Fargo parking facility. They were asking for an additional 20 stalls from the 63 East allocation which would drop them down to 60 giving 1.5 stalls per unit at 63 East.

The east end of the development would front 100 East where there would be 45 degree angled parking stalls they hoped to use. They realized the stalls could not be assigned to the project but they were hoping they would be available for use by the tenants.

vb - how many parking places required for 80 east. ryan said 85 units and they were require 1.5 stalls per unit. 128 stalls. vb said 55 of those come from wells fargo. ryan said they were taking 20 stalls from 63 allocation, that would give 1.5 for 63. option to acquire 40 stalls plus 20 plus 55

from city and then a few others on the street. they are not tech assigners. they were counting on 5 to 10 onstreet parking.

20 from 63 allocation (60 for 63 east)

Option to acquire 40 stalls from 63 east???

55 from wells fargo

A few other street parking stalls

matt - they cannot count onstreet parking toward the requirement. ryan said those number of onstreet parking . along 100 east they have 45 degree angle parking - they were not counting them towards the allocation and was not depending on them but they should be available for the project.

In response to a question from Mr. Miller, Mr. Freeman said they were working with Wells Fargo, the owners of the parking structure, to determine the best way to enforce parking such as using stickers or barcodes. Their discussions with tow truck companies for enforcement of parking would be exclusively for their designated stalls. His biggest concern was how to handle guest parking.

Mr. Freeman said they had assigned spaces for the 63 East development but Wells Fargo was not interested in assigning designated spaces for the 80 East development. Tenants of the 80 East development would park in any of the open spaces. It would not be a problem right away but could be in the future. He felt there would have to be a lot of development in Provo in order to fill the parking structure.

Mr. Walter said that the Wells Fargo parking structure was more like public parking. He did not know how a tow truck would know if a vehicle was parked legally or illegally so parking could not be enforced at that time. In the future they would need to create a uniform plan and design to allocate parking spaces in the structure.

Vice-Chair Santiago expressed concern that the parking spaces would not be available if the downtown grew and the parking requirements were not built into the project. Most new projects had to provide the required parking before they were approved.

Mr. Freeman appreciated the City working with him on these projects. The projects met the City's vision for the downtown area by bringing 160 residents to the downtown to live, shop, eat at the local restaurants, and bring the vibrancy they were looking for. He would be willing to lease all of the available parking spaces in the Wells Fargo structure and give them back to the City if they were needed.

kim - do we want 85 high end units. she recalled 63 east being high end units - she walked through 63 east and startup corridor - she felt start was equivocal if not better. she said 63 east there

wer some high end but there were some high end amen but there were some commerical grade lamin and carpet in the apts also. nothign really screamed high end to her. ryan said she was entitle to their opinion. he said the carpet was one of the most epe they could put in anyplace. they wer enotlooking for puls carp - all carpes and lamin floorin was extre expensie. not only does i they had spent a lot of time going thorough a lot of project in tuah and across the coun and these were one of the nices apts in urban settings. startup - was 80 perc low income and she saw exact same flooring and thicker countertop material and it seemed nicer . she said there was a wall in the ?? she said there were elements - she was looking for high end because it was something they claimed they would have. ryan said there were some issues that were code requirements. the pony wall between the two paitos was a custi iron divior tey were waiting to put in. . kim said the city helped witht he pojrect on 63 east and we were promised high end and now they had not delivered. she did not understand why he felt they should help with them.

ryan said they ?? They came in and bought thre property before anyone else would even consider sich a pojrect. They borugh inr esidents that chose to live and work and rent space at 63 east. he appreciated the city working with them on 63 ast. he was suprired by her comments and felt tht forge had done a lot of for the city and it had been a great partnership. They had lost a very small number of tenants and that was only because the contrusction schedule took longer than anticipated. Every other tenant that had signed pre-leases with them were extremely happy and they had heard nothing but great things from the residents.

In response to a question from Mr. Miller, Mr. Walter noted the RDA had participated in a number of parking structures and it was not to provide public parking spaces only. It provided an opportunity to pool parking to help incentivize and encourage projects to develop in the downtown. It was in that spirit that they were willing to work with Forge Development. He noted that Cowboy Partners would also be building a parking structure with more parking than would be required for their development.

Chair Sewell invited Mr. Parker to comment on the negotiations

Mr. Parker noted that when the original agreement with Wells Fargo was made the intent was to reserve spaces for future use, that was one of the reasons why they overbuilt that parking structure along with the other parking structures in downtown Provo. If University Towers had come on board they would have used all the available parking in the Wells Fargo parking structure. They would not have had any parking to allocate to Forge Development. He pointed out that there would not have been any space for future development either because University Towers would have taken up all the available space. He did not think that leasing the spaces to Forge Development was out of character.

Mr. Parker reported that surveys (morning, afternoon, and evening) had been taken of all the parking stalls in downtown Provo to prepare for the Provo Temple Open House. Of the 180 stalls that were not designated in the Wells Fargo structure, 168 of those were vacant during most of those time periods. Even with the allocation we had given to Forge there would be parking available. Not every parking stall was used every hour of the day. Also, the agreement gave the City the opportunity to allocate the additional spaces to Forge if they were needed.

Mr. Freeman wanted to make it clear that they had presented a plan to build their own parking under the building but they could only fit 35 parking stalls underneath at a cost of \$35,000 per stall which made the project unfeasible. Also, because of the low water table they were capped at one level of underground parking. That was why they went to the City for help with the parking.

Mr. Winterton stated that 63 East was one of the first residential projects to deal with parking in the downtown area. Are we going to continue allocating parking now that the ball was rolling or could we get a different project? Was this what we wanted to spend our parking allocation on? Mr. Parker stated there was not a lot of footprint left on that specific block so there wasn't a lot of flexibility. He did not think retail would work in that area of 100 North. They could wait to find other tenants for the space or work with Forge Development to provide residential apartments.

Mr. Garrett stated that one of the components they wanted to add to our downtown area was residential living space. We had great office space, great restaurants, and some retail but we needed to increase the living opportunities. He said they had a trusted partner in Forge Development that was building a quality project so he would be supportive of moving forward. Mr. Miller expressed his support also.

Ms. Santiago expressed some concern about the 63 East project not being as high-end as was promised. She asked if they were using the same materials in the 80 East project. Mr. Freeman replied that there would be a few differences. They were not happy with the metal siding on 63 East so they would go with something that was aesthetically different. The street facing exteriors of the 80 East building would look like the Center Street side of 63 East. They wanted it to look similar to a brownstone that you would see back east. The interior would not be exactly the same but it would be similar. In the middle of the complex they would have a large common courtyard area with trees, barbecue pit, and seating with the same setup on the rooftop.

There was no further discussion so Chair Sewell called for a motion.

**Motion:** Board Member Gary Garrett moved to approve **Resolution 2015-RDA-10-06-1**. The motion was seconded by Board Member Harold L. Miller, Jr.

**Roll Call Vote:** The motion passed 7:0 with Board Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

#### Adjourn Redevelopment Agency Meeting

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**Motion:** Board Member Harold L. Miller, Jr. moved to adjourn as the Redevelopment Agency and reconvene as the Municipal Council at 6:51 p.m. The motion was seconded by Board Member Calli Hales.

**Roll Call Vote:** The motion passed 7:0 with Board Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.



## Policy Items Referred from the Planning Commission

8. **A public hearing on an ordinance on an amendment to Provo City Code Sections 15.03.010, 15.03.300, 15.03.310, 15.04.120, and 15.06.030 in order to update submittal requirements for planning applications. City Wide Impact. 15-0012OA. THIS ITEM TO BE CONTINUED**

Chair Garrett indicated that Community Development had requested that this item be continued. Since the item had been noticed as a public hearing he invited public comment from anyone that had attended the meeting for that purpose. There was no response to his request.

**Motion:** Council Member David Sewell moved to continue this item. The motion was seconded by Council Member Gary Winterton.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

## Council Items and Reports

9. **An ordinance amending Provo City Code Section 2.50.110 (Municipal Council Committees) to clarify language regarding the purpose and makeup of Council Committees. (15-102)**

Chair Garrett announced that this item had been discussed in the work session earlier in the day. Council Members felt there needed to be more discussion before submitting the item for approval. He invited public comment on this item. There was no response to his request.

**Motion:** Council Member David Sewell moved to continue the item. The motion was seconded by Council Member Calli Hales.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.

## Adjourn

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**Motion:** Council Member Gary Winterton moved to adjourn at 6:55 p.m. The motion was seconded by Council Member Calli Hales.

**Roll Call Vote:** The motion passed 7:0 with Council Members Garrett, Hales, Miller, Santiago, Sewell, Van Buren, and Winterton in favor.